

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
vs.)	No. 4:05CR499 HEA
)	
DARBY LEE JOHNSON,)	
)	
Defendant.)	

MEMORANDUM AND ORDER

This matter is before the Court on defendant's Motion for Downward Departure, presumably pursuant to Rule 35, [Doc. No. 25], which was filed on June 12, 2006.

In his motion, defendant asks the Court to reduce his sentence because of his family situation. Defendant advises the Court that his parents are elderly and ill and that he was formerly primarily responsible for helping them. He further advises the Court that his fiancée is pregnant, and that he was the sole provider for his minor children prior to his incarceration. He seeks a downward departure so that he can resume these responsibilities.

While the Court commends defendant on his desire to assume these responsibilities, the Court is without authority to enter a downward departure on Defendant's motion. Rule 35 of the Federal Rules of Criminal Procedure provides

the mechanism through which a reduction of sentence may be entered. As set forth in this rule, such a reduction is entered in limited circumstances, none of which are present in the matter before the Court.

Accordingly,

IT IS HEREBY ORDERED that defendant's Motion for Downward Departure, [Doc. 25], is denied.

Dated this 15th day of June, 2006.

A handwritten signature in black ink, reading "Henry Edward Autrey", with a long horizontal flourish extending to the right.

HENRY EDWARD AUTREY
UNITED STATES DISTRICT JUDGE